

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE:

KEVIN PRESTO

DEBTOR

§  
§  
§  
§  
§

CASE NO. 06-33618  
(CHAPTER 7)

**THE OFFICIAL EMPLOYMENT-RELATED ISSUES COMMITTEE OF ENRON  
CORP.'S MOTION (I) FOR SCHEDULING CONFERENCE, (II) TO SET  
CERTAIN LITIGATION DEADLINES, AND (III) TO SET PRE-TRIAL  
CONFERENCE**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 20 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

EXPEDITED CONSIDERATION IS BEING SOUGHT

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now the Official Employment-Related Issues Committee of Enron Corp. (the "Employee Committee") and files this its Motion (i) for Scheduling Conference, (ii) to Set Certain Litigation Deadlines, and (iii) to Set Pre-Trial Conference.

### **BACKGROUND**

1. Kevin Presto is a former vice president of Enron North America Corp.
2. On December 9, 2005, the U.S. Bankruptcy Court, Southern District of Texas (the Honorable Judge Robert McGuire presiding) awarded the Employee Committee a fraudulent transfer judgment against Kevin Presto for \$2 million, in connection with a \$2 million "bonus" he received from Enron, the Friday before it commenced its chapter 11 bankruptcy case.
3. On July 31, 2006, Kevin Presto initiated the above-styled chapter 7 bankruptcy case. Docket no. 1.
4. On July 31, 2006, Kevin Presto filed a schedule C, attempting to exempt as his homestead certain real property from the bankruptcy estate and claims of creditors. Docket no. 1.
5. On September 28, 2006, the chapter 7 trustee conducted Kevin Presto's 341 meeting. *See* docket text on October 2, 2006.
6. On October 27, 2006 the Employee Committee filed its objections to Kevin Presto's attempt to exempt as his homestead real property from the bankruptcy estate and the claims of creditors. Docket no. 25.
7. The Employee Committee's objections rely on Congress's 2005 additions to section 522 of the Bankruptcy Code, which additions proscribe or cap the homestead exemption in the event (i) of certain delineated misdeeds by the debtor, or (ii) that the debtor established his interest in his Texas homestead within the 1215 days immediately preceding initiation of debtor's bankruptcy case.

**RELIEF SOUGHT**

8. The Employee Committee desires to conduct substantial discovery in connection with its objection to Debtor's homestead exemption, especially with respect to prosecuting its objection under part (o) of section 522. As such, the Employee Committee seeks an order:

- setting an expedited initial scheduling conference,
- establishing discovery deadlines;
- establishing deadlines to file dispositive motions, and
- setting a pre-trial conference.

**PRAYER**

The Employee Committee prays the Court (i) sets an expedited initial scheduling conference, (ii) establishes discovery deadlines, (iii) establishes deadlines to file dispositive motions, and (iv) sets a pre-trial conference.

Respectfully submitted this 30<sup>th</sup> day of October, 2006.

**McCLAIN, MANEY & PATCHIN, P.C.**

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